

**TOWN OF DAVIE
REGULAR MEETING
JULY 2, 2008**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:19 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Luis, Councilmembers Caletka, Crowley and Starkey. Also present were Town Administrator Shimun, Town Attorney Rayson, and Assistant Town Clerk McDaniel recording the meeting.

3. OPEN PUBLIC MEETING

Richard Meyres presented photos of a car in a canal and said this was the second time in one year that this had happened. He requested a sign be erected at the site indicating the end of the street and a barricade or speed bump installed. Councilmember Crowley suggested erecting a 50-foot length of guardrail at the end of the street. Councilmember Caletka and Councilmember Starkey agreed.

Phil Busey discussed the importance of every Davie resident participating in the November election. He reported that Barak Obama Fellows were in Town to facilitate voter registration and there were Obama events scheduled in Town on July 12th.

Craig Vanderlaan, co-founder of Adopt a Hurricane Family, provided an update on the status of the Mobile Home Repair and Replacement Program. He thanked Councilmembers and Housing & Community Development Director Shirley Taylor-Prakelt and her team for their support and help. Based on their financial performance to date, Mr. Vanderlaan was confident the program would be able to use all 75 FEMA mobile homes available. Councilmember Starkey thanked Mr. Vanderlaan for his work on behalf of Town residents.

Judy Paul wished everyone a happy Fourth of July and cautioned residents to leave the fireworks to the professionals. She was investigating cost-cutting measures that the Town could incorporate into the budget.

Fred Segal, President of the Broward County Farm Bureau, announced his candidacy for the Broward Soil and Water Conservation District Board of Supervisors.

Using an interpreter, Carlos Gonzalez asked if Palma Nova was closing. There had been a meeting the previous night attended by over 150 residents, but the question of the park's closure remained. Mr. Gonzalez asked if the park owner and the Town would provide any assistance to the residents if the park closed and if the Town was prepared to house the displaced residents. Mayor Truex advised that no development application had been filed for Palma Nova. Based on conversations Councilmembers had with the owner, Mayor Truex said there were no immediate plans to redevelop, but he noted that the Town had approved plans for the Regional Activity Center (RAC) and this did not include a mobile home park in that area. Councilmember Starkey advised Mr. Gonzalez and other residents to negotiate a longer lease agreement with the park owner.

Eric Swalley thanked Council for supporting the Kyoto Treaty. He referred to the fact that Governor Christ had discussed the possibility of ocean drilling off the Florida coast and Mr. Swalley supported Councilmember Caletka's suggestion of writing a letter of condemnation. Mr. Swalley suggested that the Town could also recommend exploring hydrogen farming and hydrogen energy economy. He invited everyone to a solar steam generation demonstration in Pine Island Park.

4. APPROVAL OF CONSENT AGENDA

Minutes

4.1 June 4, 2008 (Regular Meeting)

Proclamation

4.2 Recreation and Parks Month (July 2008)

Business Tax Receipts

4.3 First Response Claims Adjusters, 3150 Birch Terrace

4.4 FWA Consultants, 1560 SW 153 Way

4.5 Professional Nurses Registry of So. FL Inc., 3400 SW 131 Terrace

4.6 Superpaws, 1900 SW 117 Avenue

Resolutions

4.7 **ADOPTION** - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE LOCAL ROAD MASTER PLAN FOR THE TOWN OF DAVIE; AUTHORIZING THE MAYOR TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING HIS SIGNATURE TO SAID RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from June 18, 2008)

4.8
R-2008-129 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF CRAVEN THOMPSON & ASSOCIATES, INC. TO PROVIDE A STORMWATER MASTER PLAN FOR THE T.O.C. AREA AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.

4.9
R-2008-130 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRMS OF CALVIN, GIORDANO & ASSOCIATES, INC., ILER PLANNING GROUP, LARUE PLANNING & MANAGEMENT SERVICES, INC., AND MELLGREN PLANNING GROUP, TO PROVIDE CONTINUING MISCELLANEOUS PLANNING SERVICES AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AGREEMENTS FOR SUCH SERVICES.

4.10
R-2008-131 **GRANT FUNDS** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE FY 2008/09 HOUSING DELIVERY GOALS/BUDGET STRATEGIES FOR THE TOWN OF DAVIE'S STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM GRANT FUNDS; AND, PROVIDING FOR AN EFFECTIVE DATE.

4.11
R-2008-132 **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH VERMONT SYSTEMS, INC. FOR RECREATION MANAGEMENT SOFTWARE AND TRAINING. (\$44,516)

4.12
R-2008-133 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE FOR 2008 RECYCLING GRANT FUNDS. (not budgeted - Town to be reimbursed \$6,037)

4.13
R-2008-134 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A TREASURY MANAGEMENT SERVICES AGREEMENT WITH SUNTRUST BANK, AND PROVIDING AN EFFECTIVE DATE. (\$60,000)

- 4.14 **EXPENDITURE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2008-135 AUTHORIZING THE EXPENDITURE OF UP TO \$11,000.00 FROM THE DISTRICT THREE GENERAL OBLIGATION PARKS OPEN SPACE BONDS FOR COMPLETION OF PARK IMPROVEMENTS AT THE MATH IGLER PARCEL. (not budgeted)
- 4.15 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE
R-2008-136 BIDS FOR FERTILIZER.
- 4.16 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA ACCEPTING BIDS
R-2008-137 FOR FIRST AID SUPPLIES AND EQUIPMENT. (\$120,000)
- 4.17 **PARK NAME** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2008-138 NAMING GOVERNOR LEROY COLLINS PARK AND PROVIDING FOR AN EFFECTIVE DATE
- 4.18 **AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2008-139 AUTHORIZING AN AMENDMENT TO THE NON-VEHICULAR ACCESS LINE (NVAL) ON THE PLAT KNOWN AS "NOVA UNIVERSITY NO. 1," AND PROVIDING AN EFFECTIVE DATE. (DG 6-2-08, Nova University No. 1)
- 4.19 **AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2008-140 AUTHORIZING AN AMENDMENT TO THE NON-VEHICULAR ACCESS LINE (NVAL) ON THE PLAT KNOWN AS "YOUNG WORLD PLAT," AND PROVIDING AN EFFECTIVE DATE. (DG 6-3-08, Young World Plat)

Councilmember Caletka pulled items 4.18 and 4.19 from the Consent Agenda. Councilmember Starkey pulled items 4.1 and 4.7.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve the Consent Agenda, less items 4.1, 4.7, 4.18 and 4.19. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that items 6.9 and 6.10 had been withdrawn.

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.1 Councilmember Starkey stated that on page 9, the sentence that read:: "Councilmember Starkey had visited Ms. Swiercwек's property, and had seen the adjacent owner trucking in additional fill." should be changed to:: "Councilmember Starkey had visited Ms. Swiercwек's property and had seen the adjacent owner's fill."

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve with that correction. In a voice vote, all voted in favor. (Motion carried 5-0)

4.7 Acting Development Services Director Marcie Nolan pointed out that in Section 5, all road improvements that had been recommended were identified. Also noted were areas for local roads containing inconsistencies or lacking consensus. Ms. Nolan stated that the resolution had not been revised based on comments yet because staff wanted to make one revision.

Mayor Truex opened the public hearing portion of the meeting.

Debbie Colabella thanked Council for working with the neighborhood regarding SW 76 Avenue and SW 36 Street. She wanted to be sure that the Master Plan indicated that SW 36 Street, from SW 76 Avenue to College Avenue was two lanes, not four. Ms. Nolan clarified that this was identified as three lanes because of the turning lane. Ms. Colabella said Nova Southeastern University had agreed it would be two lanes only.

Karen Stenzel-Nowicki presented photos of SW 58 Avenue and the canal that ran along it, and provided information to the planners that of SW 58 Avenue was a cut-through for the Turnpike entrance. She said there were serious traffic issues on of SW 58 Avenue and the speed bumps had not mitigated the situation. Ms. Stenzel-Nowicki stated that there was gravel falling into a culvert at the south end of SW 58 Avenue at Stirling Road because of recent construction and there were several areas where guardrails were collapsing due to road deterioration. She asked that any areas along of SW 58 Avenue that were not protected would have guardrails installed as part of any future development. Ms. Stenzel-Nowicki requested that this be included in the Town's future mitigation plans on of SW 58 Avenue.

Joe Cimino wanted to be sure SW 36 Street remained two lanes.

As no one else spoke, Mayor Truex closed the public hearing portion of the meeting.

Ms. Nolan drew Council's attention to the section of the Master Plan dealing with SW 36 Street and clarified that this would be two lanes with turn lanes at two access points. These had been shown and discussed at the last meeting.

Item 12: The extension of SW 136 Avenue to SW 37 Court. Councilmember Crowley opposed this item. Ms. Nolan said they were planning to remove this project.

Item 13: SW 121 Avenue upgrade. Councilmember Starkey opposed this and noted that the community did not support any changes to this road. Sagar Onta, representing Kittelson Associates, explained that they intended to add amenities such as bike lanes and to bring the road up to standard. Councilmember Starkey felt that the appropriate time to improve this road was when the farms along it were developed. Ms. Nolan noted that the Comprehensive Plan did not specify when the improvements would be made; this was intended to allow the Town to make the improvements when development occurred. She agreed to move the priority of this item down.

Item 15: SW 127 Avenue upgrade. Councilmember Crowley opposed this. Mr. Onta clarified that this only concerned SW 127 Avenue and Councilmember Crowley said he no longer opposed it.

Item 22: the SW 71 Terrace connection to State Road 84. Mayor Truex said residents would be unhappy if this road were opened. Councilmember Crowley opposed it as well. Councilmember Starkey favored this as an alternate bus route. Councilmember Caletka opposed this as well. Council agreed to remove it.

Item 24: SW 14 Street upgrade, Phase II. Ms. Nolan explained that this was an upgrade to a three-lane, major collector with bike lanes. Vice-Mayor Luis did not want to take any property away from the trails for the bike lanes, but favored the turning lane. Ms. Nolan said this could be worded to avoid this issue and if it could not work, they would develop an alternative design.

Councilmember Starkey felt they should look at the culverts and consider putting the trails on the other side. Mayor Truex confirmed that Council favored this, provided the horse trail remained intact.

Item 28: SW 14 Street extension from Flamingo to 121 Avenue. Councilmember Starkey said some people did not want the road to go through to 121st or Hiatus Road, and she believed it would create "huge" problems. Mayor Truex agreed that residents would not be happy with this. Ms. Nolan stated that this only concerned the segment from Flamingo Road to SW 21st, approximately one quarter of a mile.

Councilmember Starkey supported item 40 for public safety reasons but did not support item 41. Councilmember Caletka supported item 28 and Councilmember Crowley opposed it.

Item 41: SW 14 Street extension Phase IV, from 121 Avenue to east of Hiatus Road. Councilmember Starkey opposed this because this area was equestrian farms that would probably not be rezoned. Councilmember Crowley and Vice-Mayor Luis opposed this as well.

Item 43: SW 20 Street traffic calming measures. Council agreed to this item.

Items 45, 46 and 47: Ms. Nolan said these items had been removed.

Item 49: SW 27 Court upgrade to a two-lane local urban roadway from Hiatus to 106 Terrace. Councilmember Crowley did not know what this improvement was. Councilmember Starkey explained that the road required frequent filling after rainstorms and needed to be stabilized. Council agreed to this item.

Item 52: Ms. Nolan stated that this item had been removed.

Item 55: Orange Drive upgrade, Phase I, from State Road 7 to the Florida Turnpike to a five-lane major collector [four lanes with a center turning lane]. Councilmember Caletka said there were open space areas that would be diminished by the upgraded roadways. He felt traffic currently flowed very well in this area. Ms. Nolan confirmed that the project only concerned the right-of-way to the north, not the canal. Councilmember Caletka did not object.

Item 56: the Orange Drive west section upgrade, to a two-lane minor collector with bike lanes from SW 142 Avenue to SW 54 Avenue. Councilmember Caletka was no longer concerned with this item.

Items 57 and 59: Ms. Nolan stated these items had been removed.

Item 61: West Park Boulevard extension. Councilmember Crowley believed the area had been vacated and residential swimming pools were located in the old right-of-ways, so he did not know where the extension could be located. Mr. Onta advised that a resident had suggested this project to provide better access for himself. Councilmember Crowley, Vice-Mayor Luis and Mayor Truex opposed this. Councilmember Starkey asked staff to investigate the vacation issue and Ms. Nolan agreed to report back to Council at their next meeting.

Later in the meeting, Ms. Nolan reported that the right-of-way referred to in item 61 had been vacated. If they wanted to provide emergency stabilized base, the property owner must agree. The project could either be removed or it could be listed as a future project. Council agreed the project should be removed.

Item 69: SW 20 Street upgrade to a two-lane local road from Flamingo to SW 117. Councilmember Starkey asked the existing conditions. Mr. Onta reported that 20th Street now ended east of Flamingo Road and the proposal was to connect it to Flamingo Road. Councilmember Starkey objected to this, saying a resident owned the right-of-way. Councilmember Crowley felt this would present traffic problems.

Item 68: Councilmember Starkey wanted to move forward with item 68 as quickly as possible. She believed this would improve traffic near Western High School. Ms. Nolan agreed this project could be moved up.

Item 77: SW 36 Court upgrade to a two-lane minor collector with bike lanes from SW 130 Avenue to SW 121 Avenue. Councilmember Starkey was strongly opposed to this. She knew there was already a bike lane on the south side of the street and felt it unnecessary to install one on the north side. Ms. Nolan said that staff would investigate this and verify the existing bike lane. Mayor Truex pointed out that if they agreed to project 13, they should also agree to 77. Councilmember Caletka and Councilmember Crowley agreed. Councilmember Starkey felt the road project should wait for redevelopment of the adjacent property.

Item 83: SW 56 Street extension, to construct a two-lane local urban roadway from 61st Avenue to 58th Avenue. Mr. Onta explained that this stretch would connect the two roadways.

Ms. Nolan confirmed that items 81, 82, 84 and 85 had been removed.

Ms. Nolan stated that staff would update the tables and revise the document per Council's comments.

Councilmember Starkey drew staff's attention to item 27: connect Bright Road to Nob Hill, near Indian Ridge Middle School. Ms. Nolan stated that this was currently under construction.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table to Council's first meeting in August [August 6, 2008]. In a voice vote, all voted in favor. (Motion carried 5-0)

4.18 Councilmember Caletka stated that he opposed this and would "do my protest vote."

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, with Councilmember Caletka dissenting, all voted in favor. (Motion carried 4-1)

4.19 Councilmember Caletka said this item had the same issue as the previous item.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve with the same conditions they had discussed at previous meetings. In a voice vote, with Councilmember Caletka dissenting, all voted in favor. (Motion carried 4-1)

6. PUBLIC HEARING

Ordinances - First Reading (Second and Final Reading to be held July 16, 2008)

6.1 **PENSION AMENDMENT** - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO ADOPT THE PENSION PROVISIONS OF THE 2005 - 2008 FIREFIGHTER COLLECTIVE BARGAINING AGREEMENT; AMENDING SECTION TWO OF THE PLAN TO REVISE THE DEFINITION OF EARNABLE COMPENSATION TO INCLUDE TOTAL REMUNERATION EXCLUSIVE OF OVERTIME; AMENDING SECTION FOUR OF THE PLAN TO PROVIDE FOR MEMBER CONTRIBUTIONS OF 8.4% OF EARNABLE COMPENSATION; AMENDING SECTION SIX OF THE PLAN TO CLARIFY THE NORMAL FORM OF RETIREMENT BENEFIT FOR A MARRIED PARTICIPANT AS THE 60 PERCENT JOINT AND SURVIVOR ANNUITY OR UNREDUCED TEN YEAR CERTAIN AND LIFE ANNUITY; AMENDING SECTION SIX OF THE PLAN TO PROVIDE FOR A HIGHER MULTIPLIER FOR A MEMBER'S SIXTEENTH THROUGH TWENTIETH YEARS OF SERVICE; AMENDING SECTION FOURTEEN OF THE PLAN TO PROVIDE FOR A FIVE YEAR DROP; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from June 18, 2008)

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on July 16, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to approve. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 3-2)

6.2 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 7, FIRE PREVENTION AND PROTECTION, CREATING SECTION 7-51, OF THE DAVIE CODE, TO PROVIDE FOR A COMMUNITY AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM; INCLUDING PROVIDING FOR DEFINITION FOR AUTOMATIC EXTERNAL DEFIBRILLATORS; REQUIRING AUTOMATIC EXTERNAL DEFIBRILLATORS IN CERTAIN OCCUPANCIES; PROVIDING FOR INSTALLATION AND OPERATION; PROVIDING FOR A INSTALLATION FEE AND PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION, PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on July 16, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Fire Chief Joe Montopoli informed Council that the Chamber of Commerce supported this ordinance and they had identified the businesses that would be affected. He explained to Mayor Truex that unless the site was very large, each site required one defibrillator.

Chief Montopoli stated that when the defibrillator was purchased, training was included. If needed, the Fire Department also offered training as well. He explained that the equipment was voice activated and could be used by anyone. Chief Montopoli advised that the Town was waiving the inspection fees and would include inspection in the annual fire inspection.

Councilmember Crowley wanted to be more specific regarding how many units were required in a building. Chief Montopoli said there were no standards and staff intended to work with the individual business owners regarding this issue.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 5-0)

6.3 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE XI, DEVELOPMENT REVIEW PROCEDURES, DIVISION 5, DEVELOPMENT REVIEW REQUIREMENTS, SECTION 12-346, COUNCIL APPROVAL OF DEVELOPMENT REQUESTS, TO INCLUDE PROCESS FOR CONCURRENT DEVELOPMENT APPLICATIONS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on July 16, 2008.

Planning & Zoning Manager David Quigley explained that Council had denied an application for a delegation request for a plat note in January and had wanted the Code changed regarding multiple applications for the same parcel being presented at the same time. Staff had prepared an ordinance pursuant to Council's direction that would include plat applications, rezonings, variances and special permits. It also included a provision allowing Council to exempt an application for good cause. Mr. Quigley acknowledged that bringing these items to Council at once promoted consistency, but added that it could make it difficult for the applicant.

Mayor Truex pointed out this would only apply in very rare instances. Councilmember Caletka remembered that this had come up for two recent projects when Council had asked the applicant to provide a site plan concurrently with the plat.

Mayor Truex opened the public hearing portion of the meeting.

Scott McLaughlin felt this was "another bureaucratic step that you shouldn't have to go through." He believed the ordinance as written, included all applications and he felt many applicants would not spend the money for a site plan until they had the plat. He noted that these applications could take years. Mr. McLaughlin stated that Fort Lauderdale had tried this and they had been inundated with applications.

As no one else spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey wanted to see a conceptual idea prior to granting a rezoning, but she could not support the ordinance in its current form, because she did not believe it would accomplish this. Mr. Quigley said staff currently advised applicants that Council would like to see conceptual site plans and sometimes the applicants chose not to provide them. Councilmember Starkey suggested an expedited process. Mr. Quigley remarked that the review process was so complex that it was difficult to generalize whether it would be best to process the applications together or separately as it depended on individual circumstances. He stated that staff was working on ways to streamline the process and reduce delays.

Councilmember Caletka did not support the ordinance as he believed Council could request site plans on a case-by-case basis. Councilmember Crowley and Vice-Mayor Luis opposed it as well. Mr. Shimun stated that staff agreed that they should not proceed with this.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to deny. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 5-0)

6.4 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN'S BUSINESS TAX RATE SCHEDULE IN ACCORDANCE WITH CHAPTER 205.0535(4) OF THE FLORIDA STATUTES, BY INCREASING THE RATE OF EACH CLASSIFICATION BY FIVE PERCENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**
[requires supermajority vote]

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on July 16, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey thought the fees for sexually-oriented businesses should be included in this section. Mr. Quigley explained that these were listed in another section. Councilmember Starkey thought arcades and real estate sales should be included as well. Mr. Quigley advised that these were under a separate ordinance.

Mr. Quigley explained that the intent was to create categories forming a logical framework, as well as “catch-all” categories for classifications not specified elsewhere. He agreed the categories were in need of revision, but this would be a very time consuming process and there was not sufficient time to do this at this point. Mr. Quigley agreed to look into moving the fee for sexually-oriented business and real estate sales and bring this back for Council’s next meeting.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-1)

6.5 **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-08, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, COMMUNITY BUSINESS DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 2-1-08, New Life Assembly of God, 8151 Stirling Road) [see related item 6.8]**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on July 16, 2008.

Mr. Rayson swore in witnesses.

Mr. Quigley summarized the staff report and explained that the Planning and Zoning Board’s objection to the rezoning had been related to the property tax implications.

Councilmember Crowley wondered why Planning and Zoning Board member Mr. Busey had voted in favor of the variance but against the rezoning. John Voigt, representing the applicant, said Mr. Busey was confused during the vote on the rezoning.

Mr. Voigt displayed the parcel and surrounding neighborhood and explained that the property had been rezoned without a site plan. He pointed out that the site was not very visible or accessible, and noted that since this was not a commercial use for the time being, the grassy area could be used for parking. Mr. Voigt explained that the project would be completed in stages over time. He pointed out that if the site plan application was submitted too soon, the approval could expire resulting in a waste of time and money.

Mr. Voigt said two neighborhood meetings had been held with Davie Lake Estates prior to filing the application. Those in attendance agreed they preferred this use to a commercial strip shopping center due to the traffic and noise and for aesthetic reasons. Mr. Voigt said no members of the public had attended the public participation meetings.

Mr. Voigt believed the distance separation requirement was intended for traffic control. He pointed out that the nearby churches would all use different streets for access and would generate less traffic than a commercial shopping center.

Pastor Maria Calleia explained that the churches attendance was currently 700 and they were committed to serving the community. She felt the church would be an asset to the Town.

Frank Costoya, also representing the applicant, stated that they would install sidewalks connecting the individual buildings and connecting to the Home Depot site. He described where street sidewalks would be installed and where asphalt trails would be located. Councilmember Starkey wanted standard sidewalks at least along the property frontage.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Mayor Truex believed Council all favored this. Councilmember Caletka remembered that he had voted against two similar issues in the past because they went against the Code and would oppose this one in order to be consistent.

Councilmember Crowley thanked the adjacent shopping center property owner for allowing traffic through the parking lot to access this property. He recommended that the site plan be presented to the Davie Lake Estates residents.

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-1)

Quasi-Judicial items

6.6 **VARIANCE** - V 2-2-08, Gallagher, 8310 SW 55 Court(R-3) (to reduce the required side setback from 15 feet to 7.9 feet) *Planning and Zoning Board recommended approval*

Earlier in the meeting, Planning & Zoning Deputy Manager David Abramson summarized the planning report.

Al Gallagher, the applicant, asked Council to approve the application.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to approve. In a roll call vote, with Councilmember Starkey out of the room, the vote was as follows:: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - out of the room. (Motion carried 4-0)

Councilmember Crowley departed at 10:35 p.m.

- 6.7 **VARIANCE** - V 3-2-08, Rogers, 540 Green River Lane (PRD 3.8) (to reduce the required side setback from 15 feet to 9.2 feet from the western property line) *Planning and Zoning Board recommended approval*

Mr. Abramson remarked that the applicant was not present and advised Council they could defer until the owner was present.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table to Council's next meeting. In a voice vote, all voted in favor. (Motion carried 5-0)

- 6.8 **VARIANCE** - V 5-1-08, New Life Assembly of God, 8151 Stirling Road (B-2) (to reduce the required minimum distance between freestanding houses of worship from 2,500 feet to 1,445.64 feet (Cathedral of Pentecost Church) and from 2,500 feet to 273.98 feet (Calvary Chapel Free Will Baptist Church of Hollywood, Florida, Inc.)) *Planning and Zoning Board recommended approval [see related item 6.5]*

Earlier in the meeting, Mr. Quigley summarized the staff report.

Councilmember Crowley made a motion, seconded by Vice-Mayor Luis, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-1)

Items to be tabled or withdrawn

- 6.9 **PLANNING AND ZONING TABLED TO JULY 9, 2008; COUNCIL CAN TABLE TO AUGUST 6, 2008**

VARIANCE - V 9-2-07, Commerce Bank, 2401 University Drive

This item was withdrawn earlier in the meeting.

- 6.10 **WITHDRAWN BY STAFF**

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 12, LAND DEVELOPMENT CODE, ARTICLE III. USE REGULATIONS, DIVISION 1. PERMITTED USES, SECTION 12-32.304 PERMITTED, RESTRICTED AND PROHIBITED USES; AMENDING THE RETAIL, SERVICE, AND ENTERTAINMENT USE GROUP TO ALLOW FAST FOOD RESTAURANTS WITHIN THE GRIFFIN CORRIDOR DISTRICT, EAST/WEST GATEWAY ZONES (EGZ/WGZ) AND DOWNTOWN ZONE (DZ); PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was withdrawn earlier in the meeting.

7. APPOINTMENTS

- 7.1 Mayor Truex

7.1.1 Senior Citizen Advisory Committee (two exclusive appointments - terms expire April 2010) (members shall be a minimum 60 years of age)

No appointments were made.

7.1.2 Site Plan Committee (one exclusive appointment - term expires June 2009) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

Mayor Truex re-appointed Jeff Evans.

- 7.1.3 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2 Vice-Mayor Luis

- 7.2.1 Site Plan Committee (one exclusive appointment - term expires June 2009) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

Vice-Mayor Luis re-appointed his appointee.

7.3 Councilmember Caletka

- 7.3.1 Parks and Recreation Advisory Committee (one exclusive appointment - term expires April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 7.3.2 Site Plan Committee (one exclusive appointment - term expires June 2009) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

Councilmember Caletka reappointed Sam Engel, Jr.

7.4 Councilmember Crowley

- 7.4.1 Parks and Recreation Advisory Committee (one exclusive appointment - term expires April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 7.4.2 Site Plan Committee (one exclusive appointment - term expires June 2009) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

No appointment was made.

7.5 Councilmember Starkey

- 7.5.1 Agricultural Advisory Board (one exclusive appointment - term expires April 2010) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

- 7.5.2 Site Plan Committee (one exclusive appointment - term expires June 2009) (members must be residents of the Town and, whenever possible, should be an architect, landscape architect and an urban planner or designer)

Councilmember Starkey re-appointed Bob Breslau.

- 7.5.3 Youth Education and Safety Advisory Board (two exclusive appointments - terms expire April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

- 7.6 Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager - both members shall be a permanent resident or have their principal place of business within the Town's jurisdiction)

No appointments were made.

- 7.7 Broward Education, Research and Training Authority (non-exclusive appointment)

Mr. Shimun stated that Public Information Officer Braulio Rosa was interested in this position.

Vice-Mayor Luis nominated Mr. Rosa, seconded by Mayor Truex. In a voice vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - yes; Councilmember Crowley - absent; Councilmember Starkey - no. (Motion carried 3-1)

- 7.8 Florida League of Cities Voting Delegate

Vice-Mayor Luis nominated Councilmember Starkey as delegate. In a voice vote, with Councilmember Crowley absent, all voted in favor. (Motion carried 4-0)

Councilmember Starkey nominated Vice-Mayor Luis as the alternate. In a voice vote, with Councilmember Crowley absent, all voted in favor. (Motion carried 4-0).

8. OLD BUSINESS

- 8.1 Charter Review Board Recommendations (tabled from June 18, 2008)

Council agreed not to discuss this in Councilmember Crowley's absence.

- 8.2 Final Environmental Impact Statement for the Fort Lauderdale/Hollywood International Airport Response

Earlier in the meeting, Public Information Officer Braulio Rosa reported that the FAA had completed the final Environmental Impact Statement [EIS]. The Town's consultants were present to discuss the results of the EIS and to ask how Council wanted to proceed.

Richard Richards, representing the Town regarding the Airport expansion, explained that comments would be made to the final EIS and the FAA would issue a Record of Decision; until this was complete, no lawsuit could be brought in an attempt to halt the process. He stated that they had performed a cursory review of the EIS and believed that Phase II would prove to be less expensive than they had originally estimated. If they continued with Phase II, they would issue comments to the FAA and create the final record for the Town, which would be used after the issuance of the Record of Decision to negotiate with the County or to litigate.

Mr. Richards confirmed that the EIS comments indicated there was no substantial impact. He felt the FAA's comments had included "blatant... almost disingenuous answers" and had not taken into account all sources of pollution when judging cumulative impact.

Mr. Richards said their comments must be completed by July 28th and the FAA estimated the Record of Decision would be complete in another 90 days. He estimated that Phase II would cost approximately \$65,000 [reduced from their original \$95,000 estimate].

John Herron, also representing the Town regarding the Airport expansion, advised Council that the longer they waited to pursue litigation after the Record of Decision was issued, the more difficult it would become to stop the FAA and County from proceeding with the process.

Councilmember Crowley wondered if the \$65,000 would take them to the 90-day deadline. Mr. Herron stated they would move expeditiously to perform the comprehensive analysis, while being sensitive to the cost.

Councilmember Starkey remarked that the Airport expansion had been a boondoggle and Broward County had wasted money. She believed the Town must protect its residents' rights and wanted to move forward with Phase II. Mr. Herron stated that their goal was to have the FAA and County pursue the "no expansion" alternative, to update the Master Plan and make operational improvements. In lieu of this, the attorneys would put the Town in the best position to either proceed with litigation or to engage the FAA and County in a dialog so they might provide the maximum protection for the Town's residents. He pointed out that the same newspaper article that announced the completion of the EIS also included a quote from the new Airport Director that operations at the Airport had slowed down.

Vice-Mayor Luis believed this would become a very expensive process for the Town, and in the current fiscal climate, he was concerned. Mayor Truex agreed this would be expensive, but noted the attorneys and experts would be working intensely to complete the review by the deadline. He reminded Council that they had undertaken this for the benefit of their residents, and said, "Life's not going to be worth living in some areas of Town if we don't fight this." He felt the County Commission would realize that they could never fulfill their promise if they were forced to add up the costs.

Mr. Herron stated that he always ensured that they spent a municipality's money in a fiscally prudent manner. He informed Council that the County Commissioners had sent out an RFP to hire its own attorneys to prepare for the battle they anticipated.

Councilmember Caletka opposed the expansion, but was concerned about the cost of pursuing this issue. He pointed out that the cost of the next phase alone represented the cost of one of the 14 positions they were considering laying off. For this reason, he could not support moving ahead.

Councilmember Crowley remembered that he had voted against funding the first phase. He noted that this was headed for a lawsuit and if they decided to move ahead, they must ultimately fund that lawsuit. For this reason, he did not support moving ahead.

Councilmember Starkey believed the expansion would lead to "substantial devaluations" of Town properties due to noise and pollution, which would ultimately affect Town revenues. She wanted to move forward to protect the residents' quality of life and future property values.

Councilmember Starkey made a motion, seconded by Vice-Mayor Luis, to approve the second Phase at the agreed upon price of \$65,000.

Mayor Truex acknowledged that this could ultimately lead to a lawsuit and remarked on the impact Airport noise already had on the community. Regarding Councilmember Caletka's point that the cost of the next phase represented an employee they might lay off, Mayor Truex stated, "The purpose of the Town is not to perpetuate...Town employees' paychecks." He did not want to see layoffs either, but he felt this was a priority.

Vice-Mayor Luis agreed they had made a commitment to the residents, and was concerned about how the expansion could affect the Traffic Oriented Corridor and RAC.

Councilmember Crowley understood that there would be an impact to the Town, but believed the County Commission would not change its mind.

Councilmember Caletka urged Council to identify where funding would come from prior to voting on the motion and Mr. Shimun stated that the funds would come from reserves.

Mayor Truex opened the public hearing portion of the meeting. Councilmember Caletka objected because this was not a public hearing item.

Debbie Colabella stated that people still moved into the area even though the noise was a burden. She did not agree with spending hundreds of thousands of dollars to “fight something that we are not going to win.” Ms. Colabella advocated getting residents together to fight this and said, “The Town cannot keep spending money they don’t have.” She thought it “outrageous that you could even think about doing that at this time.”

Karen Stenzel-Nowicki said she had attended the Noise Mitigating Committee meeting at the Airport, and they stressed that each community should concentrate on obtaining funds from the County to provide noise mitigation. She requested that Council move forward.

Mayor Truex closed the public hearing portion of the meeting.

In a roll call vote, the vote was as follows:: Mayor Truex - yes; Vice-Mayor Luis - yes; Councilmember Caletka - no; Councilmember Crowley - no; Councilmember Starkey - yes. (Motion carried 3-2)

9. NEW BUSINESS

9.1 Rights-of-Way Maintenance Issues

Mr. Shimun advised that staff was requesting Council allow them to “curve a little away from the ordinance that says that we have to treat everybody the same.” Because of the size of this property and the terrain, staff felt this property was different.

Vice-Mayor Luis noted that the property was heavy brush and was not accessible to neighboring properties, making it very difficult for residents to maintain. He felt it would be unfair to require them to maintain it.

Councilmember Starkey did not want to handle these issues this way. She wanted each property to be discussed with Council prior to requiring a resident to maintain it. Mr. Shimun reminded Council that they were discussing one property at this meeting and he did not want to “muddy the water with any others.” Councilmember Starkey reiterated that she did not want to go forward with any others, since many other residents had expressed concern. Mr. Shimun advised that staff was trying to enforce the Code. In this case, they were requesting an exception because they believed there may be some error, but Mr. Shimun did not want to “open this up for everybody.”

Mr. Shimun said this was a recommendation that this specific area between 130th and 136th continue to be maintained by the Town. He stated that on other properties, they had agreements with homeowner’s associations to do this. Public Works Director Manny Diez and Councilmember Starkey clarified exactly what properties homeowner associations agreed to maintain.

Councilmember Starkey did not want to move forward with exempting any properties, and said, exempting one over another was “capricious and arbitrary...”

Mayor Truex agreed with Councilmember Starkey and felt the “whole list ought to be knocked out.” If Mr. Diez wanted a change from the status quo, Mayor Truex suggested he make the request at a meeting under New Business. Mr. Shimun appreciated Mayor Truex’s position, however, the ordinance informed staff how to conduct business and they were trying to enforce it. The request this evening was to request that Council interpret the ordinance in such a way to allow the Town to maintain this one piece of property. Mayor Truex stated that there was no procedure for a variance and they could not disregard the ordinance. Mr. Shimun said, “I believe the Town Attorney will tell you that you can do pretty much what you want.”

Councilmember Starkey made a motion, seconded by Mayor Truex, that the Town continue to maintain all the properties and easements and trails within the system of the Town, until it came back before Council for public hearing and the residents affected were adequately noticed. She requested additional information. Mayor Truex clarified that this applied only to properties on the list and the Town would take on no new properties.

Mr. Rayson stated that he had received a partial summary judgment against the Town in the Park City Estates case. The County Court Judge had ruled that because the Town had been maintaining the median, they were required to continue. Mr. Rayson believed this was in error and intended to appeal, but admitted it was a consideration.

Councilmember Caletka remembered that the 14th Street residents had attended a meeting to complain, but there were other properties where adjacent owners would willingly maintain the Town property. He was happy to support the 14th Street request, but not other properties because they had not heard other complaints. Vice-Mayor Luis agreed, but felt this might be “opening a can of worms.” Mayor Truex reiterated they should examine all affected properties before changing it. Vice-Mayor Luis said, “If someone had a problem with it, they should have done like the people on 14th and asked for a variance.”

In a voice vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka Councilmember Luis - yes; Councilmember Caletka - no; Councilmember Crowley - absent; Councilmember Starkey - yes. (Motion carried 3-1)

Councilmember Starkey suggested that staff look into amending the language in the Code to resolve this issue. Mayor Truex suggested that if Mr. Shimun wanted properties to be exempted, Council should be provided backup, affected residents should be noticed, and the request should be on a Council agenda for discussion. Councilmember Caletka suggested that property owners already noticed be sent another notice stating the ordinance required them to maintain the Town property and if owners objected, they should “write something in response or come in to see the Council.”

10. SCHEDULE OF NEXT MEETING

10.1 Fire Station Update - Mayor Truex

Chief Montopoli stated that he was prepared, so the date for the meeting was up to Council. Mr. Shimun said his staff would coordinate dates with Councilmembers.

Mr. Abramson advised that the Planning and Zoning Division was requesting a workshop on August 6th prior to the regular Council meeting to discuss the visual preference survey results. Councilmember Starkey was not sure she could attend this but the meeting could be held without her.

10.2 Budget Workshop - July 10, 2008 at 12:00 p.m.

10.3 Special Council Meeting - September 3, 2008 at 6:00 p.m.

10.4 Solid Waste and Fire Final Special Assessments - September 15, 2008 at 12:00 p.m.

11. MAYOR/COUNCILMEMBER’S COMMENTS

COUNCILMEMBER STARKEY

JULY 4TH CELEBRATION. Councilmember Starkey invited everyone to the July 4th celebration at Pine Island Bamford Park. Mayor Truex asked Police Chief Patrick Lynn about enforcement of fireworks ordinances at residences. Chief Lynn anticipated hundreds of fireworks complaints and remarked that there would only be “about 20 cops to send” and calls would have to be prioritized.

VICE-MAYOR LUIS

VAN KIRK PARK MEETING. Vice-Mayor Luis thanked Program Manager Phil Holste and staff for attending the Van Kirk Park meeting.

JULY 4TH HOLIDAY. Vice-Mayor Luis wished everyone a happy July 4th holiday.

12. TOWN ADMINISTRATOR’S COMMENTS

No comments were provided.

13. TOWN ATTORNEY’S COMMENTS

JULY 4TH HOLIDAY. Mr. Rayson wished everyone a happy July 4th holiday.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 11:12 p.m.

Approved _____

Mayor/Councilmember

Town Clerk